IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7737 OF 2004

Smt.Shashikanti Sriram Jaiswal .. Petitioner

Versus

1. State of Maharashtra & Ors. .. Respondents

Mr.M.V.Aiya for the petitioner

Mr.J.S.Rajput for respondent no.4

Mr.G.C.Sawant for respondent no.5

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 21ST SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. By the present writ petition, the petitioner is challenging the impugned order passed by the Hon'ble Minister in revision proceedings dated 23rd August 2004. Some of the material facts briefly enumerated are as under:-

2. On 8th November 2002, an advertisement was issued in the Newspaper for new allotment of Ration

Shop under item no.122 of 2002 for the area known as Faridnagar, Pratapnagar, Bhandup. In response to the said advertisement there were 12 applications which were received by the Controller of Rationing on 6th July 2004. The 2nd respondent thereafter passed an order allotting the ration shop to respondent no.4. According to the petitioner the said order was passed even though the respondent no.4 did not comply with all conditions.

3. Being aggrieved by the said order of the Controller of Rationing dated 6th July 2004 the petitioner preferred a Revision Application before the 3rd respondent i.e. the Hon'ble Minister. The Hon'ble Minister heard the matter and directed the parties to file written arguments. By an order dated 23rd August 2004, the Hon'ble Minister has allotted three shops to respondent no.4, 5 and 6 by distribution of the available units of one shop. However, even though the petitioner had filed a revision application his case was not considered in the entire order. The petitioner being aggrieved

by the said order of the Hon’ble Minister has filed the present Writ Petition.

4. We have perused the order passed by the Hon’ble Minister. There are various infirmities in the order of the Minister. Firstly, the order does not take into consideration all the aspects on merits of the various applicants. Secondly, even the priorities under which the applications are made by the parties have not been considered. Thirdly, the Hon’ble Minister has sought to disturb the existing units by creating 3 shops even though the advertisement was issued only for one shop. Fourthly, and the most important aspect is that even though the petitioner had filed a revision application before the Minister the case of the petitioner was not considered at all, the documents of the petitioner are not considered and there is not even a reference to the petitioner in the entire order. Thus, it is manifest on the face of the order that the order passed by the Hon’ble Minister suffers from total non- application of mind.

5. In the aforesaid circumstances, we are left with no other alternative but to allow the present writ petition set aside the impugned order dated 23rd August 2004 and remand the matter back to the Hon’ble Minister for reconsideration and in particular to consider the case of the petitioner who is a revisional applicant before the Minister. We further make it clear that pending the disposal of the said revision application before the Minister the respondent no.5 and 6 will not be entitled to run any Ration Shop and it is only respondent no.4 who is the original allottee will be entitled to run Ration Shop subject to the final decision which may be arrived at by the Hon’ble Minister in the aforesaid review petition on remand. With the aforesaid direction, we dispose of the present writ petition. However, there shall be no order as to costs.